IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

C.W.P. No. 17046 of 2006
Date of Decision: 25.7.2007

Jagdish Parshad.

..... Petitioner through
Shri R.K.Gupta, Advocate.

Versus

State of Haryana and others.

..... Respondent nos. 2 and 3
through Shri Manish Bansal,
Advocate.

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

....

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

....

VIJENDER JAIN, CHIEF JUSTICE

The petitioner has assailed the orders dated 27.4.1993 (Annexure P2) and dated 27.12.2001 (Annexure P5) by way of the present writ petition.

The petitioner, who was allotted Booth Site No.30, Sector 7, Panchkula, was required to make deposit of the price as per the stipulations incorporated in allotment letter dated 3.10.1987 (Annexure P1). However, he failed to do so despite the last date for deposit of instalments had expired on 5.10.1992. Accordingly, proceedings under Sections 17(1) to (4) of the Haryana Urban Development Authority Act,1977 (for short, `the Act') were

initiated against the petitioner and vide order dated 27.4.1993 (Annexure P2), the site in question was resumed along with forfeiture of 10% of the money deposited by him. He filed an appeal against the said order on 28.9.2001. The reason for this inordinate delay is that the petitioner had taken recourse to the filing of the suit which culminated in the filing of the Regular Second Appeal wherein it dawned on him that the proper course would have been to file an appeal against the order of resumption upon which he withdrew the Regular Second Appeal and challenged the said order.

Thereafter in appeal before the competent authority also, neither the petitioner nor his counsel appeared and consequently, the same was dismissed on both counts, i.e. of delay as well as on merits.

Learned counsel for the petitioner contended that the petitioner had been making payment of instalments up to the year 2000 when he came to know that the order of resumption had been passed in the year 1993 and, therefore, took recourse to the filing of the civil suit. In para 6 of the writ petition, he has given the details of the payments which reflected that after 1988, he deposited instalments on 10.4.1995 and onwards , i.e., much after the site had been resumed in 1993. He further contended that since the petitioner had been making payment of the instalments at least up to the year 2000, the order of resumption was bad and also that the authorities concerned were demanding interest at the rate of 18% which dissuaded him from making the deposit and the matter regarding the payment of interest has been settled in Roochira Ceramics Versus Haryana Urban Development Authority and others, 2001(1) P.L.J. 109 and a number of other judgments,

wherein it has been held that the Haryana Urban Development Authority, at best, can impost 10% interest on the payment of delayed instalments.

Learned counsel for respondent nos. 2 and 3 opposed the prayer of the learned counsel for the petitioner and sought dismissal of the writ petition.

Having heard the learned counsel for the parties, we are of the opinion that the law laid down by the Apex court does not, in any way, help the petitioner as the facts of this case reveal that even though, the booth site was allotted to him in the year 1987, he failed to make payment towards its price from 1988 to 1995. Even thereafter, as per the petitioner's own showing, he made payment of the instalments in the years 1995, 1996 and 2000. The site stood resumed in the year 1993 and it was in the year 2000 that the petitioner assailed the order of resumption by way of a civil suit. In view of these peculiar facts, as also the fact that the site already stood resumed in the year 1993 on valid ground of non-payment of dues, there is no reason for us to exercise our equitable jurisdiction under Articles 226/ 227 of the Constitution of India, especially when the order of resumption assumed finality in 1993 itself with the first challenge being made in 2000, much belatedly.

Hence, the writ petition is dismissed.

(Vijender Jain)
Chief Justice

July 25,2007
"SCM"

(Mahesh Grover)
Judge